



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,842	11/24/2003	David Alan Oshinsky	COMMV.005C1	3613
20995 7590 01/24/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER ALAM, SHAHID AL	
			ART UNIT 2162	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			NOTIFICATION DATE	
3 MONTHS			01/24/2007	
			DELIVERY MODE ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/24/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

Office Action Summary	Application No.	Applicant(s)	
	10/720,842	OSHINSKY ET AL.	
	Examiner	Art Unit	
	Shahid Al Alam	2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,9 and 11-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9 and 11-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed November 2, 2006 with respect to 1,3 – 6, 9 and 11 – 22 have been considered and are persuasive. The previous 35 U.S.C. 103 rejection with Pillai reference is withdrawn. Therefore, the rejection with Pillai reference has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of U.S. Patent Number 5864,871 issued to Eduard Kitain et al. ("Kitain").

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 3 – 6, 9 and 11 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,161,111 issued to Madhav Mutalik et al. (“Mutalik”) and in view U.S. Patent Number 5864,871 issued to Eduard Kitain et al. (“Kitain”).

With respect to claim 1, Mutalik teaches a data retrieval system comprising:

the first computing device (host) having a processor that supports operation of a software application for retrieving data (see abstract; column 2, lines 47 – 54; column 3, lines 15 – 27, 40 – 42; column 4, lines 40 – 49 and column 9, lines 33 – 45);

the second computing device (server) communicatively coupled to the first computing device and to one or more storage media for storing the data (column 4, lines 1 – 5 and column 5, lines 31 – 65);

a third computing device communicatively coupled to the second computing device, the third computing device storing a storage and backup map that maps the data to the second computing device (see Figure 1 and corresponding text and also column 8, lines 50 – 63); and

a data index stored on the second computing device that indicates a particular location of the data on the one or more storage media that is to be retrieved (column 8, lines 50 – column 9, line 10 and lines 33 – 67 and column 13, lines 1 – 19).

Mutalik teaches Host computers and Server computers and these computers are connected to the Mass Storage Subsystem. Each storage subsystem has a control circuitry that is connected with Host computer and Server computer (see column 4, lines

Art Unit: 2162

1 – 29). Mutalik does not explicitly teach an interface module that is connected to the computer as claimed.

Kitain teaches claimed an interface module that is connected to the computer (column 46, lines 41 – 47).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine the teachings of Kitain with the teachings of Mutalik, because combination would provide an Internet information delivery system that has a secure but flexible password control mechanism so that information is provided only to users who are authorized to receive it, that efficiently retrieves any requested information, and that customizes the views of information provided to users in a flexible and robust manner (column 3, lines 17 – 23).

As to claims 3 and 4, the software application interoperates with an interface module, with a backup retrieval module and a file system program (see Figure 1 & 5A; Mutalik).

As to claims 5 and 6, the first computing device further comprises a file browser that is dynamic and changes to reflect information regarding the data to be retrieved, may be modified to display information regarding data to be retrieved specified by a user (see Figure 1 & 5A; Mutalik).

As to claim 9, a user may interact with the file browser to define a temporal range that specifies certain data to be retrieved (see Figure 1 & 5A; Mutalik).

Art Unit: 2162

As to claim 11, the file browser is Window Explorer (see Figure 1 & 5A Mutalik and also see column 1, line 67 – column 2, line2; Kitain).

As to claim 12, the first computing device is capable of retrieving the data without knowing the location of the data when the data is requested by the software application (Kitain: column 18, line 61 – column 19, line 4).

As to claim 13, the first, second and third computing devices are located remotely to each other and are communicatively coupled through a network (Kitain: Figure 1).

The subject matter of claims 14 – 17 and 18 – 22 are rejected in the analysis above in claims 1, 3 – 6, 9 and 11 – 13 and these claims are rejected on that basis.


Art Unit: 2162

Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid Al Alam whose telephone number is (571) 272-4030. The examiner can normally be reached on Monday-Thursday 8:00 A.M.- 4:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Shahid Al Alam
Primary Examiner
Art Unit 2162

21 January 2007